

## Burlington Conservation Board

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David Scherr*



## Conservation Board Meeting Minutes

Monday, July 11, 2011 – 5:30 pm

Planning & Zoning Conference Room – City Hall Lower Level  
149 Church Street

### Attendance.

- **Board Members:** Matt Moore (MM), Miles Waite (MW), Will Flender (WF), Jeff Severson (JS), Damon Lane (DL), Don Meals (DM), David Scherr (DS)
- **Absent:** Warren Cornwall (WC), Scott Mapes (SM)
- **Public:** Jon Anderson (451 Ethan Allen Parkway), Brad Ketterling (Public Comment – Moran)
- **Staff:** Scott Gustin (Planning & Zoning), Kirsten Merriman Shapiro (CEDO)

MM, Chair, called the meeting to order at 5:35 p.m.

Board members introduced themselves to new member David Scherr.

### Minutes.

Minutes of June 6, 2011

JS noted on pg. 3, last paragraph, 8<sup>th</sup> sentence, the wording should be “JS suggested that the applicants consider eliminating the rear parking area and consider a retaining wall to reduce wetland impacts.”

A MOTION was made by DM and SECONDED by WF:

Approve the minutes of June 6 as corrected.

Vote: 6-0-1

### Board Comment

JS said that he got an email from Brad Ketterling regarding the Moran Plant. The city plans to submit an individual permit to the U.S. Army Corps of Engineers by the end of this week. The Board should request to see a copy of the application and put it on the next agenda to provide comment.

MW said he's reviewed the application. It's an interesting document worth review by the Board.

DM said from Howard to Main St, the street grindings appear to have been swept up. MW said that Megan is very responsive. DM concurred with his experience regarding a Locust Street house addition.

MM said he sent the Board's stormwater letter to the DPW commission last week. He has not yet heard a response. MM briefly overviewed the matter for DS.

SG mentioned EPA's notice for public comment on Pine Street Barge Canal corrective measures proposed for this summer. The public comment deadline is August 15. MW would like to see the Johnson Company report from last fall. The board probably can't add to the technical aspects of what's going on. WF's only concern is what impacts it may have on stormwater discharges into the canal and then into the lake. MW said that seeing benzene from old coal tar deposits is unusual. JS said that it could be coming from different sources.

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## **Public Comment**

Kirsten Merriman Shapiro and Brad Ketterling appeared to speak about the Moran Plant and its Army Corps individual permit application.

The report was emailed to the Board earlier today.

MM asked if the city has a wetlands application ready to submit to the Corps. Kirsten Merriman Shapiro replied affirmatively. Brad Ketterling provided background. The subject wetland formed within an old oil containment berm. Due to its proximity to Lake Champlain, an individual permit (IP) was needed. The IP process is much more involved than the general permit process. It essentially involves doing an environmental impact analysis. He mentioned the Vermont in lieu fund program in partnership with Ducks Unlimited. The Corps is saying that this is the preferred way to go forward. MW, how is a dollar amount arrived at? Mr. Ketterling replied that its \$3.02 per square foot in this area of the state. This will be the 1<sup>st</sup> project that pays into the fund. He noted that specifically related to Lake Champlain, there will be type 2 turbidity curtains for stormwater discharges during construction. The project will also entail a state lake shoreline encroachment permit. This application asks for many of the items covered in the IP application.

MM, should the Board comment on the IP application before its submitted? MW noted that there will be an avenue for public comment once the application is filed. JS has a question about onsite mitigation alternatives explored. It looks like the impacts are related to the new sailing center building and boat storage area. Why can't the new building be placed closer to the Moran Plant? Doing so could eliminate wetland impacts. Nick Warner had conveyed to him the importance of the outdoor splash park to the Ice Factor, thereby dictating the location. JS has recently read that the city will run the splash park. Ms. Shapiro said that the splash area will be run by the city in the summer months. In the winter, Ice Factor will operate it as a skating area. She also noted that Federal Highway is requiring in-kind replacement of existing recreational facilities onsite. JS, if arrangement is tied into making the business feasible, that is different than simply wanting to have it arranged as proposed.

WF said he is not in a position to weigh in on the application tonight. JS, we should put it on the August agenda. MW, when is the public comment period? Mr. Ketterling, it will be determined after the application is filed; probably some two weeks after submission. MM, there is no need to hold up the application submission. We'll review it at the August meeting and provide input during the public comment period. Ms. Shapiro requested that Board members let her know of any red flags they see ASAP.

## **Open Space Subcommittee**

Defer.

## **Project Review**

### **1. 451 Ethan Allen Parkway; Ellis & Alles**

Jon Anderson appeared on behalf of this item.

Jon Anderson updated the Board. He spoke with his clients following the last meeting. They chose to leave the design unchanged. He asked that the Board consider how far the project has come.

WF said he's disappointed that the clients chose not to make changes. The project is better than it was before. He'd be inclined to support the project with a number of suggestions prior to final plat review. MM, is conveyance of land to the city still on the table? SG, 15% is required. The applicants are willing to convey more. Mr. Anderson concurred and said that he needs specific direction. He also noted willingness to allow a pathway connection to Ethan Allen Park.

DL, about the connecting trail to the park, where would it go? Is it workable? MM, not sure offhand, and he's not sure Parks & Recreation would want access from here. This might be a suggestion that the applicant work with Parks & Recreation to provide access if desired.

Mr. Anderson, we could designate the area today or provide a requirement that an easement be provided at a location to be determined later.

MW, could it connect with (or come close to) the bike path that comes out of the Intervale and onto Ethan Allen Parkway?

MM, how does the Board feel about the lack of modifications to this plan? MW, this does not kill the project. We can make recommendations to the DRB for further modifications prior to final review.

DL asked about the arrangement of the houses and the parking areas. Mr. Anderson replied that it's related to the likely location of a trail going through the property. DM, is it possible to confirm? Mr. Anderson, yes, but not right now. He could do so tomorrow.

DL, is there onstreet parking here? SG, not sure, but he's parked onstreet in front of the property.

DM said he'd argue for making their previous recommendations conditions for the DRB to consider.

A MOTION was made by 1) WF and SECONDED by 2) MM:

Recommend approval of preliminary plat subject to:

1. A recreational trail easement should be established from the end of the driveway to Ethan Allen Park, to be agreed upon with the Department of Parks & Recreation.
2. Delineate the land to be conveyed to the city, the amount to be agreed upon with the Department of Parks & Recreation.
3. The DRB should waive or reduce the visitor parking requirement for the project so as to reduce wetland impacts.
4. Wetland impacts should be reduced by installing a retaining wall or otherwise modifying the parking lot design behind the rear 3 units and the rear guest parking area to reduce the amount and footprint of fill area.
5. The Board supports the use of pervious pavement throughout the project.
6. A maintenance plan for the previous pavement should be provided.

Vote: 6-0-1 (motion carried)

## **Update & Discussion**

### **1. Open Space Subcommittee**

MM, had a good meeting today with Mari Steinbach, Dan Cahill, Bob Heiser, Chris Bogett, and Brian Costello to discuss three projects and to coordinate moving forward with them. On Burlington College's property, both land trusts (CLT and VLT) will get involved. On the Fitzgerald property, VLT has been working on the property for years and actually has a conservation easement in the works along with an application to VHCB. WF noted that it's dependent on the appraisal results. MM offered to write a letter of support to VHCB and noted that the city's Conservation Legacy Fund could contribute. They also discussed the Auer boathouse. Local Motion has been involved in negotiations with this property. There could be support with the Legacy Fund for this property too. He asked that the folks who met today meet quarterly with Dan Cahill to stay in communication to work together and to avoid duplication of effort. He asked Mari Steinbach if Parks & Recreation has a plan for land acquisition. She said that Parks & Recreation is considering the development of such a plan. MM noted that this could relate to the existing Open Space Protection Plan.

### **2. Open Space Protection Plan**

WF said this is an easy conversation. Hire a consultant and update the 10-year old plan.

DM had four reactions. Regarding item 3, the OSPP should not guide development. Item 2, it should consider urban green spaces. A new revision needs to include the Burlington Conservation Legacy Fund (BCLF). The inventory needs to be updated, but make clear that it is not an exclusive list of areas to be protected. MM suggested that perhaps there should not be a list. DL said that the inventory label should not be used. It could be seen as a list of examples. JS, it would be helpful to have a list of identified important resources. MM noted that community gardens are not addressed in the plan. JS said that a list of criteria could be developed to determine significant areas.

DM said that Chittenden County Regional Planning Commission put together an open space plan based on the suitability of areas to provide open space functions but did not account for development realities on the ground. Interestingly, the plan did not include Burlington.

MM noted that a number of the action items identified in the plan have been executed.

WF said that he sees the plan as one of the building blocks to establish the BCLF. The plan is not used in the day-to-day operations of the CLP. What's the point of the assignment to update the plan? It's not something the city has to do; it has a comprehensive plan.

DM, open space goes beyond just areas that might be acquired by the BCLF. He noted a proposition to privatize the public tennis courts at Calahan Park. WF noted that a broader idea of open space is in line with what Mari Steinbach at Parks & Recreation has in mind. It may be worthwhile to meet with David White to get an idea of what purpose the plan serves for the functions of the Planning & Zoning Department.

JS said that neighborhood green space could be an important consideration in updating the plan and may impact how open space funds are dispensed. He noted the Myrtle Street community garden project.

SG said he could get David White to attend the August meeting.

JS, whether updated by Dan Cahill or a consultant, the plan should address community gardens and trails.

WF, there should be consideration of how conservation or development proposals conform (or not) to the plan.

DL, should we coordinate this with Parks & Recreation? MM, start with David White and wrap Parks & Recreation in later.

JS noted that the process was regrettable around the Myrtle Street project. The Council went around the recommendation of the two advisory boards. Should something be put in place to avoid this in the future? WF, politics got the better of the process. The Council responded to pressure from the neighborhood.

### **Adjournment**

The meeting adjourned at 7:20 PM.